

## United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231 www.uspto.gov

APPLICATION NO.	FI	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,046	09/760,046 01/12/2001		Edith Mathiowitz	BU 111	1885
7	590	03/22/2002			
Patrea L. Pab			EXAMINER .		
Arnall Golden 2800 One Atlan	ntic Cen	ter	PULLIAM, AMY E		
1201 West Pea Atlanta, GA 3			ART UNIT	PAPER NUMBER	
ŕ			1615		
			DATE MAILED: 03/22/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary  In 1615  The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE £ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Ederations of those may be available under the provisions of 37 CFR 1.356(s), in no event, however, may a reply be timely filled.  Effective of the provision of the provisions of 37 CFR 1.356(s), in no event, however, may a reply be timely filled.  Effective of the provision of the provisions of 37 CFR 1.356(s), in no event, however, may a reply be timely filled.  Effective of the provision of the provisions of 37 CFR 1.356(s), in no event, however, may a reply be timely filled.  Effective of the provision of the provisions of 37 CFR 1.356(s), in no event, however, may a reply be timely filled.  Effective of the provision of the provisions of 37 CFR 1.756(s), in no event, however, may a reply be timely filled.  Effective of the provision of the provisions of 37 CFR 1.756(s), in order the addition of the provision of the communication, and the communication, and the communication, event timely filled, may reduce any examined plants them adjustment. See 37 CFR 1.764(s).  Effective of the provision of Claims  1) Claim(s) 1.23 is/are pending in the application.  4a) Of the above claim(s) is in a condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1.23 is/are pending in the application.  5) Claim(s) 1.23 is/are pending in the application.  5) Claim(s) 1.23 are subjected to by the Examiner.  7) Claim(s) 1.33 are subjected to by the Examiner.  10) The drawing(s) filled on 1.34 is/are bleeded to by the Examiner.  11	•		Application No.	Applicant(s)					
Amy E Pulliam  The MAILING DATE of this communication appears on the cover sheet with the correspondence address →  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Edutacina of time may be available under the provision of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SX (s) MONTFS from the mailing date of this communication.  If the period for reply specifical date or his communication.  If the period for reply specifical time the provision of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SX (s) MONTFS from the mailing date of this communication.  If the period for reply specifical time the second of the communication of the specifical time the second of this communication of the specifical time the second of the communication of the specifical time specifical t			09/760,046	MATHIOWITZ ET AL.					
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15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.									
Attachment(s)									
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)  4) Interview Summary (PTO-413) Paper No(s)  5) Notice of Informal Patent Application (PTO-152)  6) Other:	2) D Notic	e of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal F						

Application/Control Number: 09/760,046

**Art Unit: 1615** 

## **DETAILED ACTION**

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-26, drawn to a method for making dry, micronized particles of an agent, classified in class 424, subclass 489 and 490.
- II. Claims 27-33, drawn to a polymeric or macromolecular composition comprising particles of a bioactive agent, and a method of enhancing delivery of a bioactive agent, classified in class 514, subclass 2.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case there are many well known ways to create a composition comprising particles, as is described in applicant's specification. Applicant states, at page 1, lines 15 and 16, that microencapsulation has been achieved using a variety of approaches including milling, spray-drying, spray-freeze-drying, and supercritical antisolvent precipitation techniques.

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Because these inventions are distinct for the reasons given above and have

acquired a separate status in the art as shown by their different classification, restriction

for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must

include an election of the invention to be examined even though the requirement be

traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Amy E Pulliam whose telephone number is 703-308-

4710. The examiner can normally be reached on Mon-Thurs 7:30-5:00, Alternate Fri

8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Thurman Page can be reached on 703-308-2927. The fax phone numbers

for the organization where this application or proceeding is assigned are 703-305-3592

for regular communications and 703-305-3592 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 703-308-

1235.

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March 21, 2002

THURMAN K PAGE
SUPERVISORY PAYENT EXAMINER
TECHNOLOGY CENTER 1600

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